

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3
DOCKET NO.: 2007-1766-WQ-E TCEQ ID: RN102296654 CASE NO.: 34925
RESPONDENT NAME: City of San Angelo

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: City of San Angelo Wastewater Treatment Plant, located between the South Concho River on the west side and Christoval Road on the east side, south of Paint Rock Road, Tom Green County</p> <p>TYPE OF OPERATION: Collection system with manholes</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on June 9, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768 TCEQ Enforcement Coordinator: Ms. Merrilee Hupp, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4490; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: The Honorable Joseph W. Lown, Mayor, City of San Angelo, P.O. Box 1751, San Angelo, Texas 76902 Respondent's Attorney: Mr. Kerry Russell, Russell & Rodriguez, LLP, Texas Heritage Plaza, 102 West Morrow Street, Suite 103, Georgetown, Texas 78626</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review <input checked="" type="checkbox"/> Emergency Response Investigation</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigations Relating to this Case: August 20, 2007 through September 5, 2007</p> <p>Date of NOE Relating to this Case: October 10, 2007 (NOE)</p> <p>Background Facts: This investigation was in response to a report from a City representative that sewage was discharging into the South Concho River.</p> <p>WATER</p> <p>1) Failure to report an unauthorized discharge in writing within five working days of becoming aware of the noncompliance [30 TEX. ADMIN. CODE § 305.125(9) and Permit No. WQ0010641003, Monitoring Requirements Nos. 7.a and b].</p> <p>2) Failure to report an unauthorized discharge in writing within five working days of becoming aware of the noncompliance [30 TEX. ADMIN. CODE § 305.125(9) and Permit No. WQ0010641003, Monitoring Requirements Nos. 7.a and b].</p> <p>3) Failure to report an unauthorized discharge in writing within five working days of becoming aware of the noncompliance [30 TEX. ADMIN. CODE § 305.125(9) and Permit No. WQ0010641003, Monitoring Requirements Nos. 7.a and b].</p> <p>4) Failure to prevent an unauthorized discharge of wastewater and failed to take all reasonable steps to minimize a discharge [30 TEX. ADMIN. CODE § 305.125(4), Permit No. WQ0010641003, Permit Conditions Nos. 2.d and g, and</p>	<p>Total Assessed: \$17,120</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$17,120</p> <p>Total Paid to General Revenue: \$0</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Orders Justification: This is a Findings Order because the Respondent had three previous NOV's over the prior five year period for the same violation.</p>	<p>Corrective Actions Taken:</p> <p>1) The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a) By September 19, 2007, stopped the discharges from the manholes by removing the blockage from the collection line and patching and sealing manholes and leaks. Also, the McClanahan property was cleaned up by pumping out sewage, applying calcium hypochlorite, and removing contaminated or affected soils;</p> <p>b) By September 27, 2007, stopped discharges from the aerial collection line and surrounding manholes by unblocking the line. Completed clean up by power-washing and vacuum pumping out sewage in the ravine and the area enclosed by the constructed dams, applying calcium hypochlorite to the ground, and sampling to confirm that levels of bacteria, dissolved oxygen, and free oil and grease had returned to levels acceptable to the TCEQ;</p> <p>c) By November 13, 2007, began submitting noncompliance reports for each unauthorized discharge;</p> <p>d) On March 12, 2007, the San Angelo Regional Office received a letter from the Respondent, requesting to participate in the Sanitary Sewer Overflow ("SSO") Initiative Program;</p> <p>e) On March 20, 2007, the San Angelo Regional Office mailed a letter, confirming the Respondent's participation in the SSO Initiative Program; and</p> <p>f) On February 15, 2008, the San Angelo Regional Office mailed a letter, accepting the Respondent's final plan to address SSOs under the SSO Initiative Program.</p> <p>Ordering Provisions:</p> <p>2) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP) (See SEP Attachment A).</p>

<p>TEX. WATER CODE § 26.121(a)].</p> <p>5) Failure to prevent an unauthorized discharge of wastewater and failed to take all reasonable step steps to minimize a discharge [30 TEX. ADMIN. CODE § 305.125(4), Permit No. WQ0010641003, Permit Conditions Nos. 2.d and g, and TEX. WATER CODE § 26.121(a)].</p> <p>6) Failure to prevent an unauthorized discharge of wastewater and failed to take all reasonable steps to minimize a discharge [30 TEX. ADMIN. CODE § 305.125(4), Permit No. WQ0010641003, Permit Conditions Nos. 2.d and g, and TEX. WATER CODE § 26.121(a)].</p> <p>7) Failure to prevent an unauthorized discharge of wastewater and failed to take all reasonable steps to minimize a discharge [30 TEX. ADMIN. CODE § 305.125(4), Permit No. WQ0010641003, Permit Conditions Nos. 2.d and g, and TEX. WATER CODE § 26.121(a)].</p> <p>8) Failure to prevent an unauthorized discharge of wastewater and failed to take all reasonable steps to minimize a discharge [30 TEX. ADMIN. CODE § 305.125(4), Permit No. WQ0010641003, Permit Conditions Nos. 2.d and g, and TEX. WATER CODE § 26.121(a)].</p>		
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Additional ID No(s): WQ0010641003

Attachment A
Docket Number: 2007-1766-WQ-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of San Angelo
Payable Penalty Amount:	Seventeen Thousand One Hundred Twenty Dollars (\$17,120)
SEP Amount:	Seventeen Thousand One Hundred Twenty Dollars (\$17,120)
Type of SEP:	Pre-approved
Third-Party Recipient:	Keep Texas Beautiful
Location of SEP:	Tom Green County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to cleanup rivers, lakes, and shorelines, by supplying project coordination, labor, supplies, and materials for cleanup events and by providing assistance with disposal fees for proper disposal of wastes collected at events. To maximize the event, cleanups will use volunteers for labor. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by improving water quality of lakes, rivers, and creeks, reducing flooding caused by blockage of drainage outlets, reducing the potential threat to wildlife, decreasing damage to boats, and reducing injury to swimmers and bathers.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Hester Bloom, Program Manager
Keep Texas Beautiful
P.O. Box 2251
Austin, Texas 78768

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision September 19, 2007

TCEQ

DATES	Assigned	16-Oct-2007	Screening	31-Oct-2007	EPA Due	
	PCW	5-Nov-2007				

RESPONDENT/FACILITY INFORMATION

Respondent	City of San Angelo		
Reg. Ent. Ref. No.	RN102296654		
Facility/Site Region	8-San Angelo	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	34925	No. of Violations	5
Docket No.	2007-1766-WQ-E	Order Type	Findings
Media Program(s)	Water Quality	Enf. Coordinator	Merrilee Hupp
Multi-Media		EC's Team	Enforcement Team 1
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 **\$16,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **17% Enhancement** Subtotals 2, 3, & 7 **\$2,720**

Notes: The Respondent received three NOV's with same or similar violations and one NOV without same or similar violations.

Culpability **No** **0% Enhancement** Subtotal 4 **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply **10% Reduction** Subtotal 5 **\$1,600**

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	X
N/A	(mark with x)

Notes: The Respondent achieved compliance by November 13, 2007.

Total EB Amounts	\$625
Approx. Cost of Compliance	\$102,150

0% Enhancement*

*Capped at the Total EB \$ Amount

Subtotal 6 **\$0**

SUM OF SUBTOTALS 1-7

Final Subtotal **\$17,120**

OTHER FACTORS AS JUSTICE MAY REQUIRE

0%

Adjustment **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$17,120**

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty **\$17,120**

DEFERRAL

0%

Reduction Adjustment **\$0**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY

\$17,120

Screening Date 31-Oct-2007

Docket No. 2007-1766-WQ-E

PCW

Respondent City of San Angelo

Policy Revision 2 (September 2002)

Case ID No. 34925

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN102296654

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	3	15%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 17%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

The Respondent received three NOVs with same or similar violations and one NOV without same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 17%

Screening Date 31-Oct-2007 Respondent City of San Angelo Case ID No. 34925 Reg. Ent. Reference No. RN102296654 Media [Statute] Water Quality Enf. Coordinator Merrilee Hupp Violation Number <input type="text" value="1"/>	Docket No. 2007-1766-WQ-E <div style="text-align: right;"> PCW <small>Policy Revision 2 (September 2002) PCW Revision September 19, 2007</small> </div>																				
Rule Cite(s) 30 Tex. Admin. Code § 305.125(9) and Permit No. WQ0010641003, Monitoring Requirements Nos. 7.a and b.																					
Violation Description <div style="border: 1px solid black; padding: 5px; margin-top: 5px;"> <p>Failed to report an unauthorized discharge in writing within five working days of becoming aware of the noncompliance. Specifically, on August 28, 2007, the Respondent became aware of an unauthorized discharge from a manhole in the easement about 264 feet southwest of the McClanahan property, an unauthorized discharge from a hole in the collection line approximately 20 yards east of the easement manhole, and an unauthorized discharge from a manhole south of the aerial section of the collection line when TCEQ investigators and the Respondent discussed these discharge points during a search for signs of unauthorized discharges. No written reports for any of the three separate discharges had been received by the TCEQ by the end of the investigation on September 5, 2007.</p> </div>																					
Base Penalty <input style="width: 100px;" type="text" value="\$10,000"/>																					
>> Environmental, Property and Human Health Matrix																					
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;"></th> <th style="width: 20%;">Major</th> <th style="width: 20%;">Moderate</th> <th style="width: 20%;">Minor</th> <th style="width: 30%;"></th> </tr> </thead> <tbody> <tr> <td>Release</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td></td> </tr> <tr> <td>Potential</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td>Percent <input style="width: 50px;" type="text" value="0%"/></td> </tr> </tbody> </table>		Major	Moderate	Minor		Release					Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>		Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input style="width: 50px;" type="text" value="0%"/>
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Matrix Notes	<div style="border: 1px solid black; padding: 5px; margin-top: 5px;"> 100 percent of the requirement was not met. </div>																				
Adjustment <input style="width: 100px;" type="text" value="\$9,000"/>																					
<input style="width: 100px;" type="text" value="\$1,000"/>																					
Violation Events																					
<table style="width: 100%;"> <tr> <td style="width: 40%;">Number of Violation Events <input style="width: 50px;" type="text" value="3"/></td> <td style="width: 20%; text-align: center;"><input style="width: 50px;" type="text" value="58"/></td> <td style="width: 40%;">Number of violation days</td> </tr> </table>		Number of Violation Events <input style="width: 50px;" type="text" value="3"/>	<input style="width: 50px;" type="text" value="58"/>	Number of violation days																	
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<small>mark only one with an x</small>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tbody> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input type="text"/></td></tr> <tr><td>quarterly</td><td><input type="text"/></td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text"/></td></tr> <tr><td>single event</td><td><input checked="" type="checkbox"/></td></tr> </tbody> </table>	daily	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input checked="" type="checkbox"/>								
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Violation Base Penalty <input style="width: 100px;" type="text" value="\$3,000"/>																					
<div style="border: 1px solid black; padding: 5px; margin-top: 5px;"> Three single events are recommended for the three delinquent reports. </div>																					
Economic Benefit (EB) for this violation																					
Statutory Limit Test																					
Estimated EB Amount <input style="width: 100px;" type="text" value="\$1"/>	Violation Final Penalty Total <input style="width: 100px;" type="text" value="\$3,210"/>																				
This violation Final Assessed Penalty (adjusted for limits) <input style="width: 100px;" type="text" value="\$3,210"/>																					

Economic Benefit Worksheet

Respondent City of San Angelo
Case ID No. 34925
Reg. Ent. Reference No. RN102296654
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$150	3-Sep-2007	13-Nov-2007	0.2	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost for the submittal of three unauthorized discharge reports. Date required is when the reports were due and final date is when the three delinquent reports were received by TCEQ.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$150

TOTAL

\$1

Screening Date 31-Oct-2007

Docket No. 2007-1766-WQ-E

PCW

Respondent City of San Angelo

Policy Revision 2 (September 2002)

Case ID No. 34925

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN102296654

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(4), Permit No. WQ0010641003, Permit Conditions Nos. 2.d and g, and Tex. Water Code § 26.121(a)

Violation Description

Failed to prevent an unauthorized discharge of wastewater. Specifically, an unknown volume of sewage was discharging from a manhole on the McClanahan south property line beginning about 6:30 am on August 18, 2007. The sewage crossed through the McClanahan property onto an adjacent property and into the South Concho River. Additionally, the Respondent failed to take all reasonable steps to minimize the discharge into the South Concho River. There was no documented evidence of the discharge being contained or pumped from either property until several days later, on August 23, 2007, and by August 20, 2007, the discharge was estimated by the Respondent to have reached over 1,000,000 gallons.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual		x	
Potential			

Percent 25%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants as a result of this violation, however, sample results did not demonstrate that pollutants exceeded levels protective of human health or environmental receptors as a result of this discharge since upstream samples were already significantly above recreation water limits for fecals and oxygen. In addition, suspended solids levels at the discharge point into the South Concho River were well within that of typical surface water.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2

32 Number of violation days

mark only one with an x	daily	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$5,000

Two monthly events are recommended from the date the discharge was documented (August 18, 2007) to the date it had ceased and was cleaned up (September 19, 2007).

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$614

Violation Final Penalty Total \$5,350

This violation Final Assessed Penalty (adjusted for limits) \$5,350

Economic Benefit Worksheet**Respondent** City of San Angelo**Case ID No.** 34925**Reg. Ent. Reference No.** RN102296654**Media** Water Quality**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$100,000	18-Aug-2007	19-Sep-2007	0.1	\$29	\$584	\$614
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost for assessment of collection system and its repair (patching holes and sealing leaks) and maintenance (removing blockage) as well as clean up costs (equipment, labor, sampling, chemicals, and disposal) associated with any unauthorized discharges. Included were labor and materials for power-washing and vacuum pumping of sewage, patching of collection line and manholes, application of calcium hypochlorite, and the removal of the stoppage from the collection line. Date Required is the date the discharge was documented and the Final Date is when clean up was completed.

Avoided Costs**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs**Approx. Cost of Compliance**

\$100,000

TOTAL

\$614

Screening Date 31-Oct-2007 Respondent City of San Angelo Case ID No. 34925 Reg. Ent. Reference No. RN102296654 Media [Statute] Water Quality Enf. Coordinator Merrilee Hupp Violation Number 3 Rule Cite(s) 30 Tex. Admin. Code § 305.125(4), Permit No. WQ0010641003, Permit Conditions Nos. 2.d and g, and Tex. Water Code § 26.121(a)	Docket No. 2007-1766-WQ-E PCW <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision September 19, 2007</i>																			
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<table style="width: 100%;"> <tr> <td style="width: 40%;">Number of Violation Events</td> <td style="width: 10%; text-align: center;">2</td> <td style="width: 10%; text-align: center;">23</td> <td style="width: 40%;">Number of violation days</td> </tr> </table> <table style="width: 100%;"> <tr> <td style="width: 20%; vertical-align: top;"> <i>mark only one with an x</i> </td> <td style="width: 20%;"> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>daily</td><td></td></tr> <tr><td>monthly</td><td></td></tr> <tr><td>quarterly</td><td style="text-align: center;">x</td></tr> <tr><td>semiannual</td><td></td></tr> <tr><td>annual</td><td></td></tr> <tr><td>single event</td><td></td></tr> </table> </td> <td style="width: 60%; vertical-align: top;"> Violation Base Penalty \$2,000 </td> </tr> </table> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> Two quarterly events are recommended for the two discharges documented on August 27, 2007 and ceasing with clean up completed by September 19, 2007. </div>		Number of Violation Events	2	23	Number of violation days	<i>mark only one with an x</i>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>daily</td><td></td></tr> <tr><td>monthly</td><td></td></tr> <tr><td>quarterly</td><td style="text-align: center;">x</td></tr> <tr><td>semiannual</td><td></td></tr> <tr><td>annual</td><td></td></tr> <tr><td>single event</td><td></td></tr> </table>	daily		monthly		quarterly	x	semiannual		annual		single event		Violation Base Penalty \$2,000
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Economic Benefit Worksheet**Respondent** City of San Angelo**Case ID No.** 34925**Reg. Ent. Reference No.** RN102296654**Media** Water Quality**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost is covered under Violation Number 2.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Screening Date 31-Oct-2007

Docket No. 2007-1766-WQ-E

PCW

Respondent City of San Angelo

Policy Revision 2 (September 2002)

Case ID No. 34925

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN102296654

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 305.125(4), Permit No. WQ0010641003, Permit Conditions Nos. 2.d and g, and Tex. Water Code § 26.121(a)

Violation Description

Failed to prevent an unauthorized discharge of wastewater. Specifically, on August 18, 2007, sewage was reported to be discharging from a 2-inch hole and leaking sleeve on the aerial portion of the 30" wastewater collection line, resulting in a discharge by August 19, 2007 of an estimated 108,000 gallons of sewage into the ravine and then the South Concho River, as documented during the investigation beginning August 20, 2007.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual		x	
Potential			

Percent 25%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants as a result of this violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2

40

Number of violation days

mark only one with an x	daily	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$5,000

Two monthly events are recommended from the August 18, 2007 discharge date to September 27, 2007 when discharge had ceased and was cleaned up.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$8

Violation Final Penalty Total \$5,350

This violation Final Assessed Penalty (adjusted for limits) \$5,350

Economic Benefit Worksheet**Respondent** City of San Angelo**Case ID No.** 34925**Reg. Ent. Reference No.** RN102296654**Media** Water Quality**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$1,500	18-Aug-2007	27-Sep-2007	0.1	\$8	n/a	\$8
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost is generally covered under Violation Number 2, with the exception of additional clean up and sampling costs and the damming of the ravine in areas under the aerial collection line to the river. Date required is the date the discharge was reported to have begun and final date is the date the discharge had ceased and clean up was completed.

Avoided Costs**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs**Approx. Cost of Compliance**

\$1,500

TOTAL

\$8

Screening Date 31-Oct-2007

Docket No. 2007-1766-WQ-E

PCW

Respondent City of San Angelo

Policy Revision 2 (September 2002)

Case ID No. 34925

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN102296654

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 305.125(4), Permit No. WQ0010641003, Permit Conditions Nos. 2.d. and g., and Tex. Water Code § 26.121(a)

Violation Description

Failed to prevent an unauthorized discharge of wastewater. Specifically, during the investigation beginning on August 20, 2007, evidence of a wastewater discharge was documented on August 28, 2007 at a manhole southwest of the aerial section of the collection pipeline. Solids indicative of sewage were documented on the ground around the manhole.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants as a result of this violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

64 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,000

One quarterly event is recommended from the August 28, 2007 documented discharge date to September 27, 2007 when discharge had ceased and was cleaned up.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$1,070

This violation Final Assessed Penalty (adjusted for limits) \$1,070

Economic Benefit Worksheet

Respondent City of San Angelo
Case ID No. 34925
Reg. Ent. Reference No. RN102296654
Media Water Quality
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$500	28-Aug-2007	27-Sep-2007	0.1	\$2	n/a	\$2
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to clean up sewage debris and solids around manhole and dispose of material. Date required is the date evidence of discharge was documented and final date is when cleanup was completed.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$2

Compliance History

Customer/Respondent/Owner-Operator: CN600251615 City Of San Angelo Classification: AVERAGE Rating: 6.88
Regulated Entity: RN102296654 WASTE WATER TRTMT PLT Classification: AVERAGE Site Rating: 2.71
ID Number(s): WASTEWATER PERMIT WQ0010641003
WATER QUALITY NON PERMITTED ID NUMBER R08ST0043
Location: between the South Concho R. on the W. side, Christoval Rd.
on the E. Side, S. of Paint Rock Rd., Tom Green Co. Rating Date: September 01 07 Repeat Violator: NO
TCEQ Region: REGION 08 - SAN ANGELO
Date Compliance History Prepared: October 31, 2007
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: October 31, 2002 to October 31, 2007
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Merrilee Hupp Phone: 512-239-4490

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A

B. Any criminal convictions of the state of Texas and the federal government.
N/A

C. Chronic excessive emissions events.
N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1. 02/29/2004 (264389)
2. 01/04/2005 (346029)
3. 01/24/2005 (348125)
4. 04/20/2005 (371704)
5. 11/28/2005 (435647)
6. 02/23/2007 (541331)
7. 03/20/2007 (554371)
8. 09/12/2007 (594102)
9. 10/09/2007 (596836)
10. 10/10/2007 (596566)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 02/29/2004 (264389)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(4)

30 TAC Chapter 305, SubChapter F 305.125(5)

Rqmt Prov: PERMIT VIII.2.b.

Description: Failure to prevent an unauthorized discharge of wastewater into or adjacent to water in the state at a location not permitted as an outfall.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.11(d)

Description: Failure to maintain calibration for an automatic flow measuring device.

Date: 01/04/2005 (346029)

Self Report? NO Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)

30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: PERMIT PPIII

PERMIT PPVIII.2.b

Description: Failure to prevent an unauthorized discharge of municipal wastewater into or adjacent to water in the state.

Date: 11/28/2005 (435647)

Self Report? NO Classification: Moderate

Citation: TWC Chapter 26 26.121

Rqmt Prov: PERMIT PPVIII.2.b.

Description: Failure to prevent an unauthorized discharge of wastewater into or adjacent to water in the state at multiple locations not permitted as an outfall.

Date: 02/23/2007 (541331)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 210, SubChapter A 210.4(a)(4)[G]

Description: Failure to maintain an operation and maintenance plan for the reclaimed water.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 210, SubChapter C 210.36(2)[G]

Description: Failure to submit monthly reports for reclaimed water.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: PERMIT PPVII.12

Description: Failure to submit the annual City's Farm Management Program Plan (Plan) to the region office by December 15 of each year.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF SAN ANGELO
RN102296654**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-1766-WQ-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of San Angelo ("the City") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the City, represented by Kerry Russell of the law firm of Russell & Rodriguez, LLP, presented this agreement to the Commission.

The City understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the City agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the City.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The City owns and operates a collection system with manholes between the South Concho River on the west side and Christoval Road on the east side, south of Paint Rock Road, in Tom Green County, Texas (the "Facility").

2. The City has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During an investigation beginning August 20, 2007 and ending on September 5, 2007, TCEQ staff documented the following:
 - a. By August 28, 2007, the City became aware of an unauthorized discharge from a hole in the collection line approximately 20 yards east of an easement manhole southwest of the McClanahan property. By the end of the investigation, on September 5, 2007, an unauthorized discharge report had not been received by TCEQ for this discharge;
 - b. On August 28, 2007, the City became aware of a leaking manhole in the easement approximately 264 feet southwest of the McClanahan south property line. By the end of the investigation, on September 5, 2007, an unauthorized discharge report had not been received by TCEQ for this discharge;
 - c. On August 28, 2007, the City became aware of an unauthorized discharge from a manhole south of the aerial section of the collection line when accompanying TCEQ investigators on a search for signs of unauthorized discharges at the Facility. By the end of the investigation, on September 5, 2007, an unauthorized discharge report had not been received by TCEQ for this discharge;
 - d. An unknown volume of sewage discharging from a manhole on the McClanahan south property line reported to have begun about 6:30 am on August 18, 2007. The sewage crossed through the McClanahan property onto an adjacent property and into the South Concho River. Additionally, the City failed to take all reasonable steps to minimize the discharge into the South Concho River. There was no documented evidence of the discharge being contained or pumped from either property until several days later, on August 23, 2007, and by August 20, 2007, the discharge was estimated by the City to have reached over 1,000,000 gallons. Sample results did not demonstrate that pollutants exceeded levels protective of human health or environmental receptors as a result of this discharge since upstream samples were already significantly above recreation water limits for fecals and oxygen. In addition, suspended solids levels at the discharge point into the South Concho River were well within that of typical surface water;
 - e. Sewage residue and debris in an area approximately 20-25 yards wide and 40-50 yards long were documented on August 27, 2007 in the easement around a manhole, about 264 feet southwest of the McClanahan south property line;
 - f. Sewage residue and debris were documented on August 27, 2007 on the ground near a recently patched hole on the collection line approximately 20 yards to the east of the easement manhole;
 - g. On August 18, 2007, sewage was reported to be discharging from a two-inch hole and leaking sleeve on the aerial portion of the 30-inch wastewater collection line, resulting in a discharge by August 19, 2007 of an estimated 108,000 gallons of sewage into the ravine and then into the South Concho River; and

- h. Solids on the ground around a manhole southwest of the aerial collection pipeline, were photographed on August 28, 2007, indicating a discharge had occurred at this point.
- 4. The City received notice of the violations on October 15, 2007.
- 5. The Executive Director recognizes that the City has implemented the following corrective measures at the Facility:
 - a. By September 19, 2007, stopped the discharges from the manholes by removing the blockage from the collection line and patching and sealing manholes and leaks. Also, the McClanahan property was cleaned up by pumping out sewage, applying calcium hypochlorite, and removing contaminated or affected soils;
 - b. By September 27, 2007, stopped discharges from the aerial collection line and surrounding manholes by unblocking the line. Completed clean up by power-washing and vacuum pumping out sewage in the ravine and the area enclosed by the constructed dams, applying calcium hypochlorite to the ground, and sampling to confirm that levels of bacteria, dissolved oxygen, and free oil and grease had returned to levels acceptable to the TCEQ;
 - c. By November 13, 2007, began submitting noncompliance reports for each unauthorized discharge as required by 30 TEX. ADMIN. CODE § 305.125(9) and Permit No. WQ0010641003, Monitoring Requirements Nos. 7.a and b;
 - d. On March 12, 2007, the San Angelo Regional Office received a letter from the City, requesting to participate in the Sanitary Sewer Overflow ("SSO") Initiative Program;
 - e. On March 20, 2007, the San Angelo Regional Office mailed a letter, confirming the City's participation in the SSO Initiative Program; and
 - f. On February 15, 2008, the San Angelo Regional Office mailed a letter, accepting the City's final plan to address SSOs under the SSO Initiative Program.

II. CONCLUSIONS OF LAW

- 1. The City is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
- 2. As evidenced by Findings of Fact No. 3.a, the City failed to report an unauthorized discharge in writing within five working days of becoming aware of the noncompliance, in violation of 30 TEX. ADMIN. CODE § 305.125(9) and Permit No. WQ0010641003, Monitoring Requirements Nos. 7.a and b.
- 3. As evidenced by Findings of Fact No. 3.b, the City failed to report an unauthorized discharge in writing within five working days of becoming aware of the noncompliance, in violation of 30

TEX. ADMIN. CODE § 305.125(9) and Permit No. WQ0010641003, Monitoring Requirements Nos. 7.a and b.

4. As evidenced by Findings of Fact No. 3.c, the City failed to report an unauthorized discharge in writing within five working days of becoming aware of the noncompliance, in violation of 30 TEX. ADMIN. CODE § 305.125(9) and Permit No. WQ0010641003, Monitoring Requirements Nos. 7.a and b.
5. As evidenced by Findings of Fact No. 3.d, the City failed to prevent an unauthorized discharge of wastewater and failed to take all reasonable steps to minimize a discharge, in violation of 30 TEX. ADMIN. CODE § 305.125(4), Permit No. WQ0010641003, Permit Conditions Nos. 2.d and g, and TEX. WATER CODE § 26.121(a).
6. As evidenced by Findings of Fact No. 3.e, the City failed to prevent an unauthorized discharge of wastewater and failed to take all reasonable steps to minimize a discharge, in violation of 30 TEX. ADMIN. CODE § 305.125(4), Permit No. WQ0010641003, Permit Conditions Nos. 2.d and g, and TEX. WATER CODE § 26.121(a).
7. As evidenced by Findings of Fact No. 3.f, the City failed to prevent an unauthorized discharge of wastewater and failed to take all reasonable steps to minimize a discharge, in violation of 30 TEX. ADMIN. CODE § 305.125(4), Permit No. WQ0010641003, Permit Conditions Nos. 2.d and g, and TEX. WATER CODE § 26.121(a).
8. As evidenced by Findings of Fact No. 3.g, the City failed to prevent an unauthorized discharge of wastewater and failed to take all reasonable steps to minimize a discharge, in violation of 30 TEX. ADMIN. CODE § 305.125(4), Permit No. WQ0010641003, Permit Conditions Nos. 2.d and g, and TEX. WATER CODE § 26.121(a).
9. As evidenced by Findings of Fact No. 3.h, the City failed to prevent an unauthorized discharge of wastewater and failed to take all reasonable steps to minimize a discharge, in violation of 30 TEX. ADMIN. CODE § 305.125(4), Permit No. WQ0010641003, Permit Conditions Nos. 2.d and g, and TEX. WATER CODE § 26.121(a).
10. Pursuant TO TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the City for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
11. An administrative penalty in the amount of Seventeen Thousand One Hundred Twenty Dollars (\$17,120) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth IN TEX. WATER CODE § 7.053. Seventeen Thousand One Hundred Twenty Dollars (\$17,120) shall be conditionally offset by the City's completion of a Supplemental Environmental Project ("SEP").

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The City is assessed an administrative penalty in the amount of Seventeen Thousand One Hundred Twenty Dollars (\$17,120) as set forth in Section II, Paragraph 11 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of San Angelo, Docket No. 2007-1766-WQ-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

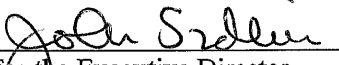
2. The City shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 11 above, Seventeen Thousand One Hundred Twenty Dollars (\$17,120) of the assessed administrative penalty shall be offset with the condition that the City implement the SEP defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the City if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
8. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

6/18/08

Date

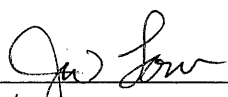
I, the undersigned, have read and understand the attached Agreed Order in the matter of City of San Angelo. I am authorized to agree to the attached Agreed Order on behalf of City of San Angelo, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, the City of San Angelo waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

Joseph W. Lown
Mayor, City of San Angelo

Name (Printed or typed)
Authorized Representative of
City of San Angelo

April 1, 2008

Date

Mayor, City of San Angelo

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2007-1766-WQ-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of San Angelo
Payable Penalty Amount:	Seventeen Thousand One Hundred Twenty Dollars (\$17,120)
SEP Amount:	Seventeen Thousand One Hundred Twenty Dollars (\$17,120)
Type of SEP:	Pre-approved
Third-Party Recipient:	Keep Texas Beautiful
Location of SEP:	Tom Green County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to cleanup rivers, lakes, and shorelines, by supplying project coordination, labor, supplies, and materials for cleanup events and by providing assistance with disposal fees for proper disposal of wastes collected at events. To maximize the event, cleanups will use volunteers for labor. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by improving water quality of lakes, rivers, and creeks, reducing flooding caused by blockage of drainage outlets, reducing the potential threat to wildlife, decreasing damage to boats, and reducing injury to swimmers and bathers.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Hester Bloom, Program Manager
Keep Texas Beautiful
P.O. Box 2251
Austin, Texas 78768

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

